

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

WHETSTONE ELECTRONICS, LLC,	§	
	§	
Plaintiff,	§	Civil Action No. 6:08cv317
	§	
v.	§	
	§	
EPSON AMERICA, INC., et al,	§	Jury Trial Demanded
	§	
Defendants.	§	

**PLAINTIFF’S ANSWER TO OCÉ NORTH AMERICA, OCÉ IMAGISTICS
AND OCÉ BETTER BUSINESS MACHINES, INC.’S
FIRST AMENDED ANSWER AND COUNTERCLAIMS**

Plaintiff Whetstone Electronics, LLC (“Whetstone”) files this Answer to Océ North America, Océ Imagistics and Océ Better Business Machines, Inc.’s (“Océ”) Counterclaims. The numbered paragraphs below correspond to those presented in Océ’s Counterclaims. Except as expressly admitted below, Whetstone denies the allegations and characterizations in Océ’s Counterclaims, and in support thereof would show the following:

ANSWER TO OCE’S COUNTERCLAIMS

THE PARTIES

1. Upon information and belief, admitted.
2. Upon information and belief, admitted.
3. Upon information and belief, admitted.
4. Admitted.
5. Admitted.

JURISDICTION AND VENUE

6. No substantive factual allegations are made in this paragraph, therefore, denied.

7. Admitted.

FIRST COUNTERCLAIM

DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '746 PATENT

8. No new substantive allegations are made in paragraph 8.
9. Admitted.
10. Denied.
11. Admitted.
12. Denied.

SECOND COUNTERCLAIM

DECLARATORY JUDGMENT OF INVALIDITY OF THE '746 PATENT

13. No new substantive allegations are made in paragraph 13.
14. Admitted.
15. Denied.
16. Admitted.
17. Denied.

THIRD COUNTERCLAIM

DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '157 PATENT

18. No new substantive allegations are made in paragraph 18.
19. Admitted.
20. Denied.
21. Admitted.
22. Denied.

FOURTH COUNTERCLAIM

DECLARATORY JUDGMENT OF INVALIDITY OF THE '157 PATENT

- 23. No new substantive allegations are made in paragraph 23.
- 24. Admitted.
- 25. Denied.
- 26. Admitted.
- 27. Denied.

FIFTH COUNTERCLAIM

**DECLARATORY JUDGMENT OF INEQUITABLE CONDUCT AND
UNENFORCEABILITY OF THE '746 AND '157 PATENTS**

- 28. Denied.
- 29. As "Applicants" is defined, denied.
- 30. As "Applicants" is defined, denied.
- 31. As "Applicants" is defined, denied.
- 32. Admitted.
- 33. Denied.
- 34. Denied.

Material References Cited in Related Applications

- 35. As "Applicants" is defined, denied.
- 36. Admitted.
- 37. The international publications speak for themselves. Plaintiff denies the characterization of the references.
- 38. The international publications speak for themselves. Plaintiff denies the

characterization of the references.

39. Denied.

40. Plaintiff admits that the specification of the '746 patent and the '157 patent contain the quotations cited in paragraph 165. Plaintiff denies the remainder of the allegations in paragraph 165.

41. Denied.

42. Denied.

43. Plaintiff lacks sufficient information to admit or deny. Therefore, denied.

44. Denied.

45. Plaintiff admits that the quoted matter appears to reflect the cited resource. Plaintiff denies that each of the Applicants, as defined, had such a duty at all times implied in paragraph 45.

46. Denied.

47. Denied.

Material References Identified During Litigation

48. Denied.

49. Denied.

50. Plaintiff lacks sufficient information to admit or deny. Therefore, denied.

51. Plaintiff lacks sufficient information to admit or deny. Therefore, denied.

52. Plaintiff lacks sufficient information to admit or deny. Therefore, denied.

53. Plaintiff lacks sufficient information to admit or deny. Therefore, denied.

54. Plaintiff lacks sufficient information to admit or deny. Therefore, denied.

55. Plaintiff lacks sufficient information to admit or deny. Therefore, denied.

56. Denied.

57. Denied.

58. Denied.

59. Denied.

60. Denied.

Material References Identified By Inventors

61. Plaintiff lacks sufficient information to admit or deny. Therefore, denied.

62. Plaintiff lacks sufficient information to admit or deny. Therefore, denied.

63. Denied.

64. Denied.

65. Plaintiff lacks sufficient information to admit or deny. Therefore, denied.

66. Denied.

67. Denied.

68. Denied.

69. Denied.

Fiery, Splash, and Colorbus Systems

70. Denied.

71. Plaintiff admits that the quoted matter appears to reflect the cited resource. Plaintiff denies that each of the Applicants, as defined, had such a duty at all times implied in paragraph 196.

72. Denied.

73. Denied.

74. Denied.

75. Denied.

76. Denied.

77. Denied.

78. Denied.

79. Plaintiff lacks sufficient information to admit or deny. Therefore, denied.

80. Plaintiff lacks sufficient information to admit or deny. Therefore, denied.

81. Plaintiff lacks sufficient information to admit or deny. Therefore, denied.

82. Denied.

PRAYER

WHEREFORE, Plaintiff requests that Defendant take nothing against Plaintiff by reason of its counterclaims against Plaintiff, that Plaintiff be awarded the relief sought in its Original Complaint, that the Court dismiss Defendant's Counterclaims against Plaintiff in their entirety with prejudice, that Plaintiff be awarded its costs of suit, including attorneys' fees, and that the Court grant such other and further relief as it deems just and proper.

Dated: January 25, 2010

Respectfully submitted,

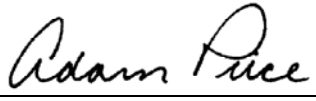
By: Adam Price

Andrew G. DiNovo
Texas State Bar No. 00790594
Adam G. Price
Texas State Bar No. 24027750
7000 N. MoPac Expressway, Suite 350
Austin, Texas 78731
Telephone: (512) 539-2626
Facsimile: (512) 539-2627
Email: adinovo@dpelaw.com

*Attorneys for Plaintiff Whetston
Electronics, LLC*

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served this 25th day of January, 2010 with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by electronic mail, facsimile transmission and/or first class mail on this same date.


Adam G. Price